

# SETTLEMENT AGREEMENT

The Wyoming Department of Environmental Quality, Solid and Hazardous Waste Division (DEQ) and Cool Enterprises, Inc., enter into this Settlement Agreement to fully and finally resolve without litigation the violations alleged in Notice of Violation No. 5421-14, dated May 27, 2014. Cool Enterprises, Inc., is the owner and operator of the underground storage tanks (USTs) located at the Buckhorn Grocery and Gas. This UST facility is registered with the DEQ as facility 0-004325. The Notice of Violation alleges that Cool Enterprises, Inc., failed to properly monitor pressurized underground piping and perform Class C Storage Tank Operator training. These acts are violations of Wyoming Water Quality Rules and Regulations (WWQRR), Chapter 17.

W.S. 35-11-901(a) (ii) authorizes the DEQ to negotiate a stipulated settlement, including payment of a penalty, in lieu of litigation. To that end, Cool Enterprises, Inc., and the DEQ hereby stipulate and agree as follows:

1. The DEQ is responsible for enforcing the Storage Tank Act of 2007 and WWQRR, Chapter 17.
2. Cool Enterprises, Inc., committed the following violations of WWQRR, Chapter 17:

**Count 1: Failure to Properly Monitor Pressurized Underground Piping: [WWQRR, Chapter 17, Section 14(g)(i)(B)].** As the operator of the USTs located at 723 Dayton Street in Ranchester, Cool Enterprises, Inc., violated WWQRR, Chapter 17, Section 14(g)(i)(B), by having a sump sensor that was improperly placed, thus negating the ability of the sensor to detect a leak of 3 gallons per hour.

**Count 2: Failure to Perform Class C Storage Tank Operator Training: [WWQRR, Chapter 17, Section 46(h)].** As the operator of the USTs located at 723 Dayton Street in Ranchester, Cool Enterprises, Inc., violated WWQRR, Chapter 17, Section 46(h), by failing to provide Class C Storage Tank Operator training for their store clerks.

3. The total penalty for the cited violations shall be two thousand dollars (\$2000.00). Cool Enterprises, Inc., agrees to pay a total of five hundred dollars (\$500.00) to the DEQ as a stipulated penalty for the cited violations. Payment of five hundred dollars (\$500.00) shall be made and returned with this Settlement Agreement. Payment shall be by check made payable to the Wyoming Department of Environmental Quality and addressed to the Wyoming Department of Environmental Quality, Attention: Oma Gilbreth, Herschler Building, 4<sup>th</sup> Floor West Wing, 122 W. 25<sup>th</sup> Street, Cheyenne, WY 82002.
4. Payment of one thousand, five hundred dollars (\$1,500.00) is stayed for one (1) year from the date of this Settlement Agreement. If Cool Enterprises, Inc., complies with WWQRR, Chapter 17, and the Storage Tank Act of 2007 for one (1) year after this agreement has been signed, the remaining one thousand, five hundred dollars (\$1,500.00) of this penalty shall be waived. Full compliance with WWQRR, Chapter 17, and the Storage Tank Act of 2007 includes, but is not limited to: 1) payment of annual tank fees by January 1; 2) performance of an operator's annual inspection by March 13, 2015; 3) reporting and investigating a suspected release whenever a passing automatic tank gauge test result is not obtained during a month as required by WWQRR, Chapter 17, Section 16(c)(ii); 4) reporting and investigating a suspected release whenever inventory control records fail during consecutive months in accordance with WWQRR, Chapter 17, Section 16(a)(viii); 5) performance of a cathodic protection test on the UST by February 28, 2015; 6) properly monitoring the pressurized underground piping; and 7) performance of Class C Storage Tank Operator training as required by WWQRR, Chapter 17, Section 46(h).
5. Cool Enterprises, Inc.'s, full compliance with the terms of this Settlement Agreement shall constitute satisfaction for all claims by the DEQ against Cool Enterprises, Inc., based on the violations alleged in Notice of Violation Docket Number 5421-14. Contingent upon Cool Enterprises, Inc.'s, compliance with the terms of this Settlement Agreement, the DEQ will refrain from taking further enforcement action against Cool Enterprises, Inc., for these particular violations.

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6. Cool Enterprises, Inc., waives any statute of limitations that may apply to an enforcement action by the DEQ involving the specific matters described in Notice of Violation Docket Number 5421-14 in the event that Cool Enterprises, Inc., fails to fulfill its obligations under this Settlement Agreement.
7. This Settlement Agreement shall be admissible by either party without objection by the other party in any subsequent action between these parties.
8. Each party shall bear its own attorney fees and costs, if any, incurred through the date this Settlement Agreement is signed by both parties.
9. This Settlement Agreement is binding upon Cool Enterprises, Inc., and all its successors and assigns and upon the DEQ.
10. Nothing in this Settlement Agreement supersedes any provision found in any Wyoming state law, or any regulation issued by the DEQ, or any federal law or regulation.
11. This Agreement may not be amended except by a written order signed by both parties.
12. The persons signing this Settlement Agreement certify that they are duly authorized to bind their respective parties to this Settlement Agreement.

FOR COOL ENTERPRISES, INC.:

Signature: KRC  
Name: Keith R Cooley

1-20-2015  
Date

FOR THE WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY:

Todd Parfitt  
Todd Parfitt  
Director  
Luke Esch  
Luke Esch  
Administrator  
Solid and Hazardous Waste Division

1/15/2015  
Date

1-13-16  
Date

check # 1363  
\$500.00